

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SHEEBA B. ORIKO,

Plaintiff,

v.

STARBUCKS CORPORATION, a  
Washington corporation; and HEATHER  
SCHMIDT,

Defendants.

Case No. C07-5230FDB

ORDER DISMISSING CAUSE OF  
ACTION & DENYING SUMMARY  
JUDGMENT

**INTRODUCTION**

Plaintiff Oriko was hired in March 2005 as an IT-Senior Project Manager in Starbucks' Information Technology-Project Management Services ("IT-PMS") group at the Seattle Support Center in March 2005. (Oriko Dep. at 68:13-21). Defendant Heather Schmidt hired Oriko and was Oriko's immediate supervisor. Oriko was discharged on April 12, 2006 by Starbucks for poor work performance. Oriko filed this lawsuit on May 7, 2007. The parties engaged in mediation on May 29, 2008 (Oriko proceeding pro se), but the case did not settle [Dkt. # 49]. Oriko's Title VII claims against Heather Schmidt (now Peabody) and her defamation claim against both defendants have been dismissed. Starbucks now moves for summary judgment on all remaining claims.

ORDER - 1

1 Starbucks' summary judgment motion was noted pursuant to the Local Rules for July 4,  
2 2008 (the fourth Friday following June 12, 2008).

3 The day before Oriko's response to the summary judgment motion was due, she filed a  
4 document entitled "Plaintiff's Dismissal of Claim" in which she stated:

5 I, Sheeba B. Oriko, plaintiff in Pro Se, wish to inform the court that after  
6 engaging in discovery, now believe that defendants Starbucks Corporation and  
Heather Schmidt have realized that they wronged me. I also see some reasons why  
they ended my employment.

7 I therefore dismiss this lawsuit.

8 [Dkt. # 59, June 29, 2008]

9 Starbucks then filed its Reply in support of their summary judgment motion on July 3, 2008,  
10 arguing that no opposition had been filed – noting Oriko's dismissal of claim – and that the Court  
11 could dismiss the case pursuant to Fed. R. Civ. P. 41(a)(1)(i) "upon such terms and conditions as the  
12 court deems proper," and that it would be appropriate to grant Starbucks' summary judgment  
13 motion pursuant to Fed. R. Civ. P. 56(e).

14 On July 7, 2008, Oriko filed "Plaintiff's Reply in Opposition To Defendant's Motion for  
15 Summary Judgment." In her Reply, Oriko states that from June 2, 2008 through July 2, 2008 she  
16 was ill, and she requests that the Court order a second mediation.

17 Also on July 7, 2008, Oriko filed a document entitled "Plaintiff's Response in Opposition To  
18 Defendant's Motion for Summary Judgment." [Dkt. # 62] In her response, Oriko asserts that her  
19 supervisor (Defendant Heather Schmidt, now Peabody) made racial and sexual comments to her, and  
20 that when she reported the unlawful racial and sexual harassment to Human Resources, she was  
21 retaliated upon, put on probation, documented, then fired. Oriko also asserts that she received good  
22 performance reviews in June 2005 and October 2006, and that it was only in January 2006 that she  
23 received an "off-cycle" performance review for purposes of documentation. Oriko attaches certain  
24 referenced materials in support of her arguments.

25  
26 ORDER - 2

1 On July 9, 2008, Starbucks filed a reply to the two July 7 documents filed by Oriko, and  
2 asserted that Oriko presented no specific admissible evidence to support the elements of her claims.

3 **DISCUSSION AND CONCLUSION**

4 The record in this case persuades the Court to grant Plaintiff a dismissal of this case upon her  
5 “Dismissal of Claim” filed June 27, 2008, which the Court construes as a motion for dismissal  
6 pursuant to Fed. R. Civ. P. 41(a)(2). Oriko has been proceeding pro se since her original counsel  
7 died and was terminated from this case on November 26, 2007. Although attorney George  
8 Theodore Hunter appeared on Oriko’s behalf on March 20, 2008, Oriko filed a notice on April 23,  
9 2008 that she was withdrawing as Hunter’s client. On April 29, 2008, Hunter filed his declaration in  
10 support of Oriko’s letter and on the same day Oriko filed her Motion to Remove Attorney of  
11 Record, to which Starbucks filed its opposition on May 2, 2008. By Order of May 5, 2008, the  
12 Court allowed Oriko to proceed pro se and Hunter to withdraw, and also continued time to complete  
13 discovery to June 5, 2008. Oriko’s declaration on July 7, 2008 that she was ill for virtually the entire  
14 month of June, which compromised her prosecution of this case and response to summary judgment,  
15 nevertheless did not prevent her from filing on the same day an opposition to summary judgment,  
16 including exhibits in support of her response. A review of everything before the Court at this time  
17 reveals that Oriko’s case is not compelling; nevertheless, the same circumstances warrant dismissal  
18 rather than a grant of summary judgment. This is not to say, however, that merely because Oriko is  
19 pro se she has unimpeded leeway to set her own schedule in a case, to start over when it suits her,  
20 and to cause the opposing party to incur costs. Oriko may be subject to monetary sanctions,  
21 including opposing party’s costs for failing to meet Court ordered deadlines in any future case.

22 ACCORDINGLY, IT IS ORDERED: Pursuant to Plaintiff Oriko’s Statement of Dismissal of  
23 Claim [Dkt. # 59], this cause of action is DISMISSED, and Defendants’ Motion for Summary  
24 Judgment [Dkt. # 51] is DENIED.

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26 ORDER - 3

1 DATED this 21<sup>st</sup> day of July, 2008.

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4 FRANKLIN D. BURGESS  
5 UNITED STATES DISTRICT JUDGE  
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